

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL VEST,	:	Civil No. 4:13-CV-01539
	:	
Petitioner	:	(Judge Munley)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JEROME WALSH, Secretary, Pennsylvania Department of Corrections, et al.,	:	
	:	
Respondents	:	

MEMORANDUM ORDER

THE BACKGROUND TO THIS ORDER IS AS FOLLOWS:

On January 24, 1989, Michael Vest, the petitioner in the above-captioned action, was found guilty by a jury of second-degree murder in the Court of Common Pleas of Delaware County. See CP-23-CR-01857-1988 (Court of Common Pleas, Delaware Co.). On October 23, 1991, the Court of Common Pleas sentenced Vest to a mandatory term of life imprisonment, without the possibility of parole, pursuant to Section 1102(b) of Title 18 of the Pennsylvania Consolidated Statutes, 18 Pa. Cons. Stat. Ann. § 1102(b). Vest is currently incarcerated at the State Correctional Institutional at Dallas, which is located within the Middle District of Pennsylvania.

On June 7, 2013, Vest commenced the above-captioned action by filing a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. In the petition,

Vest argues that his sentence of life imprisonment for second-degree murder is unconstitutional following *Miller v. Alabama*, 567 U.S. – , 132 C. Ct. 2455 (2012), because he was a juvenile at the time of the offense.

On June 20, 2013, Standing Order 13-6 was entered in this case, appointing the Federal Defender for the Middle District of Pennsylvania as counsel for the petitioner.

On June 26, 2013, the petitioner moved, through counsel, to transfer this case to the United States District Court for the Eastern District of Pennsylvania. (Doc. 8.) As support for the motion, the petitioner observes that a federal habeas petition may be filed in the district where the applicant is confined or in the district where he was convicted. 28 U.S.C. § 2241(d). The district court for the district in which the federal habeas petition is filed has discretion to transfer the application to the other district court for hearing and determination. Id.

The petitioner contends that transfer in this case is warranted because the trial court, all court records, and the District Attorney of Delaware County who is likely to represent the respondents in this matter are located in the Eastern District of Pennsylvania. Finally, the petitioner notes that the Delaware County District Attorney has concurred in the requested transfer. (Doc. 9.)

Upon consideration, we find that transfer of this action to the district in which

the petitioner was convicted and sentenced is appropriate and in the best interests of all parties involved. Accordingly, upon consideration of the motion to transfer these habeas corpus proceedings to the United States District for the Eastern District of Pennsylvania (Doc. 8), and upon consideration of the respondents' concurrence in the requested transfer, IT IS HEREBY ORDERED THAT the motion is GRANTED.

The Clerk of Court is directed to transfer to this case to the United States District Court for the Eastern District of Pennsylvania.

So ordered this 28th day of June, 2013.

/s/ Martin C. Carlson
Martin C. Carlson
United States Magistrate Judge